

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

IN RE:)
)
CUMMINGS MANOOKIAN, PLLC,)
)
Debtor,)
)
JEANNE ANN BURTON, TRUSTEE,)
)
Plaintiff,)
)
V.) NO. 3:19-bk-07235
) Chapter 7
HAGH LAW, PLLC; APSOON) Judge Walker
HAGH; MANOOKIAN, PLLC; and)
FIRST-CITIZENS BANK & TRUST)
COMPANY,)
)
Defendants.)
)

DEPOSITION OF
RONETTE LEAL MCCARTHY
JUNE 8, 2022

LEA ANNE GRAY
ANNE WILSON & ASSOCIATES
P.O. Box 150651
Nashville, Tennessee 37215
(615) 298-1992

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APPEARANCES

FOR THE TRUSTEE, JEANNE ANN BURTON:
PHILLIP G. YOUNG, JR., ESQUIRE
Thompson Burton PLLC
6100 Tower Circle, Suite 200
Franklin, Tennessee 37067

FOR BRIAN MANOOKIAN AND MANOOKIAN, PLLC:
JOHN SPRAGENS, ESQUIRE
Spragens Law, PLC
311 22nd Avenue North
Nashville, Tennessee 37203

FOR FIRST CITIZENS BANK & TRUST:
CRAIG V. GABBERT, JR., ESQUIRE
BASS BERRY & SIMS
150 Third Avenue South
Suite 2800
Nashville, Tennessee 37201

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S T I P U L A T I O N S

The deposition of Ronette Leal McCarthy was taken via Zoom on the 8th day of June, 2022, beginning at or about 10:00 a.m., at the instance of the Trustee, pursuant to the provisions of the Tennessee Rules of Civil Procedure.

It is agreed that Lea Anne Gray, court reporter and notary public for the State of Tennessee, may swear the witness, take her deposition by stenographic means, and afterwards reduce same to typewritten form.

All formalities as to notice, caption, certificate, and signing of the deposition by the deponent are waived. All objections, except as to the form of the question, are reserved to the hearing of said matter.

1 RONETTE LEAL MCCARTHY,
2 having been first duly sworn, testified as follows:
3 EXAMINATION BY MR. YOUNG:

4 Q. Good morning, Ms. McCarthy. My name is
5 Phillip Young, and I represent Jeanne Burton, who is
6 the court-appointed Bankruptcy Trustee for Cummings
7 Manookian, PLLC. And, just for the record, I'll let
8 everyone know that Ms. Burton is in the room with me
9 this morning.

10 Ms. McCarthy, could you please state your full
11 name for the record?

12 A. Certainly. Ronette Leal McCarthy.

13 Q. Have you ever given a deposition
14 before?

15 A. I have not.

16 Q. So I'm going to explain some rules that
17 you probably know, but we'll go through them, anyway.
18 They're specially important, since, you know, Zoom
19 depositions are a little more awkward, even than
20 regular depositions. I'll ask that you answer all of
21 my questions audibly with a yes or a no, not just a
22 head shake or an uh-huh or huh-uh. I'll ask that you
23 answer all questions that I ask, even if another
24 attorney objects, unless someone specifically tells
25 you not to answer. And if that happens, we'll

1 resolve that issue before we move on. I expect this
2 to be relatively short, but if you need to take a
3 break, let me know. As long as we're not in the
4 middle of a question, I'll be happy to take a break.
5 I'm going to ask you a few questions that are sort of
6 unique to Zoom depositions. Where are you physically
7 located today?

8 A. Today, I'm in my home.

9 Q. Is there anyone else in the room with
10 you?

11 A. There is not.

12 Q. Okay. How many screens are powered on
13 in the room that you're in?

14 A. Just one.

15 Q. Do you have any paper in front of you
16 this morning?

17 A. Just the exhibits.

18 Q. So you don't have any notes, whether
19 they're on paper or pulled up on your screen?

20 A. I do not.

21 Q. Do you have any communication apps open
22 on your computer, like texting or instant messaging
23 or anything like that?

24 A. I do not.

25 Q. Ms. McCarthy, you're a licensed

1 attorney; is that correct?

2 A. I am.

3 Q. In what state are you licensed?

4 A. Illinois.

5 Q. Do you currently practice law with that
6 license?

7 A. I do.

8 Q. In what area of law do you practice?

9 A. There's a few. I'm inhouse counsel for
10 Elements Cremation Company. I have my own practice,
11 where I do real estate closings, end of life issues,
12 wills, trusts, small business representations, and
13 then a piece of it is referrals in regards to
14 personal injury matters.

15 Q. You said you are inhouse counsel. I'm
16 sorry. I didn't catch the name of the company.
17 What's the name of the company?

18 A. Elements Cremation.

19 Q. And I assume that's a crematory?

20 A. Correct.

21 Q. Ms. McCarthy, you're familiar with a
22 Fitzgerald v. Osborne case that was filed in
23 Tennessee, aren't you?

24 A. I am.

25 Q. And I'm going to preface this by

1 saying, I don't want you to violate any
2 attorney/client privilege or anything like that, so
3 I'm not asking you any of those questions. And if my
4 questions get afoul of that, I'm sure you'll let me
5 know. But my intention is not to violate -- to ask
6 you to violate the attorney/client privilege. But
7 without violating any attorney/client privilege,
8 explain to me how you became involved in the
9 Fitzgerald versus Osborne matter.

10 A. The Fitzgeralds and myself have been
11 friends for probably 40 plus years. And in that
12 regard, they came to me asking for assistance after
13 their daughter passed. They had already received
14 calls from other counsel and were thinking that they
15 needed to find representation.

16 Q. So did you assist them in finding
17 Tennessee counsel?

18 A. I did.

19 Q. What did you do in order to help them
20 find Tennessee counsel?

21 A. I reached out to a number of Tennessee
22 counsel. I went through some initial intake, as I do
23 with all clients who come to me looking for counsel
24 to represent them in any personal injury matter. So
25 I had phone calls with a few different counsel

1 licensed in Tennessee.

2 Q. And you eventually spoke to Brian
3 Manookian about that representation?

4 A. I did.

5 Q. How did you get Mr. Manookian's name?

6 A. From another friend that lives in
7 Tennessee.

8 Q. So he was referred to you by someone
9 else?

10 A. By a -- yeah, by a private party.

11 Q. Again, without violating any privilege,
12 tell me about your conversations with Mr. Manookian
13 prior to the Fitzgeralds meeting with him.

14 A. It was basic introduction, learning
15 about his practice area. He described his wins, his
16 success rate, his commitment to his clients.

17 Q. Approximately how many times did you
18 speak with Mr. Manookian before the Fitzgeralds met
19 him?

20 A. I believe it was only a couple of times
21 on the phone.

22 Q. And why did you ultimately refer the
23 Fitzgeralds to Mr. Manookian?

24 A. He seemed to be the best choice for
25 them to have commitment to his clients. I'm not

1 unfamiliar with working with personal injury counsel,
2 and, at that point, he seemed to be the one that
3 would work the hardest for them.

4 Q. At the time you first had conversations
5 with Mr. Manookian, did you understand him to be a
6 member of a law firm?

7 A. I did.

8 Q. What was the name of that firm?

9 A. Cummings Manookian.

10 Q. Did the Fitzgeralds ultimately engage
11 Cummings Manookian to represent them?

12 A. That is my understanding, yes, in what
13 I read on the retainer agreement.

14 Q. And were you ever given a copy of an
15 engagement letter between Cummings Manookian and the
16 Fitzgeralds?

17 A. I was.

18 Q. Was that before or after they signed
19 the engagement letter?

20 A. After they signed it.

21 Q. Okay. I want to ask you to look at
22 what's been marked as -- pre-marked as Exhibit One.
23 And I circulated it around to all parties this
24 morning. And I'll represent to you, just to make
25 sure that we're looking at the right letter, Exhibit

1 One, it's a letter on Cummings Manookian letterhead
2 dated May 23, 2018, addressed to Marty and Melissa
3 Fitzgerald with a RE line of legal representation and
4 engagement. Do you see that letter?

5 A. I do.

6 Q. Okay.

7 A. Excuse me if I have to blow my nose.
8 We live here in Illinois, where allergies are
9 abundant right now. So --

10 Q. No problem.

11 A. -- I apologize.

12 Q. We might be in the same position but
13 for a lot of rain the last few days.

14 (EXHIBIT NO. 1 WAS DESIGNATED.)

15 BY MR. YOUNG:

16 Q. Have you seen this document that's
17 marked as Exhibit One before?

18 A. I have.

19 Q. Okay. What is this?

20 A. This is the legal representation and
21 engagement letter to me, and Marty and Melissa
22 Fitzgerald and the Cummings Manookian Law Firm.

23 Q. And is this the copy of the engagement
24 letter that was sent to you? And I'll specifically
25 direct you to page two, second paragraph of the

1 contingency fee section, where it says, We will work
2 with Attorney Ronette McCarthy in this matter. Was
3 this the copy of the engagement letter that was sent
4 to you?

5 A. It is.

6 Q. And did you produce a copy of this
7 document to the Trustee in response to a subpoena?

8 A. I did.

9 Q. And that language that I just read,
10 where it specifically references you, was that
11 language in the version of this letter that was sent
12 to you?

13 A. It was.

14 Q. And do you recall when this letter was
15 sent to you?

16 A. It was a few weeks after the
17 engagement, upon my request.

18 Q. So you asked for a copy of it?

19 A. Correct.

20 Q. And this is what was sent to you,
21 what's been marked as Exhibit One?

22 A. Yes.

23 Q. Now, I want to ask you to pick up the
24 document that's been pre-marked as Exhibit Two,
25 which, again, is another letter on Cummings Manookian

1 letterhead dated May 23, 2018, same date, to Marty
2 and Melissa Fitzgerald regarding legal representation
3 and engagement. But I'll represent to you, this is
4 slightly different than the one that you just looked
5 at. And, specifically, I'll direct you, again, to
6 page two, under the contingency fee section, second
7 paragraph. Do you see where it says, We may work
8 with other attorneys in this matter? Do you see
9 that?

10 A. Yes.

11 Q. Do you see your name referenced
12 anywhere in that paragraph?

13 A. I do not.

14 Q. Have you ever seen a copy of this
15 letter that's been marked as Exhibit Two?

16 A. Not until it became marked as Exhibit
17 Two.

18 Q. So today is the first time you've ever
19 seen a copy of this letter?

20 A. I saw it when you forwarded it, when
21 the first deposition was scheduled, a number of weeks
22 ago.

23 Q. Prior to me sending this to you as a
24 potential exhibit, you had never seen this copy of
25 this letter?

1 A. I had not.

2 Q. Do you know whether this letter was
3 ever reviewed by the Fitzgeralds?

4 A. I do not.

5 Q. And you were never sent a copy of this
6 letter by either the Fitzgeralds or by Mr. Manookian?

7 A. I was not.

8 Q. So you don't know whether or not they
9 signed a copy of this letter?

10 A. I do not.

11 Q. Or whether they authorized this letter?

12 A. I do not.

13 (EXHIBIT NO. 2 WAS DESIGNATED.)

14 BY MR. YOUNG:

15 Q. Did you ever speak with an attorney
16 named Afsoon Hagh prior to the Fitzgeralds engaging
17 Cummings Manookian in this matter?

18 A. No.

19 Q. Did Mr. Manookian ever tell you that
20 Ms. Hagh would be working on the case?

21 A. Yes, at one point.

22 Q. Okay. When was that?

23 A. When he was suspended.

24 Q. And we'll talk about that in a minute.

25 But prior to his suspension, you had never spoken

1 with Ms. Hagh?

2 A. I had not.

3 Q. And you didn't know that she was
4 involved in the case at all?

5 A. My only knowledge was that she worked
6 at the firm, with Brian and with Cummings, as well.

7 Q. What were you told about her role at
8 Cummings Manookian, if anything?

9 A. From my recollection, just that it
10 would be very limited. Brian was the point person;
11 it was Brian's case; Brian was the primary contact.
12 It was always all about Brian being in charge and
13 leading the case.

14 Q. Were you ever told whether Ms. Hagh was
15 a partner and associate, a contractor, anything like
16 that with Cummings Manookian?

17 A. I don't think that conversation ever
18 came up.

19 Q. And the only thing you were told about
20 her role in the case was that it was going to be
21 limited?

22 A. I'm not even certain that those words
23 were used, limited, but that she was, you know, part
24 of the firm, but I didn't know to what degree.

25 Q. And prior to Mr. Manookian's

1 suspension, you had never spoken with Ms. Hagh?

2 A. No.

3 Q. And I'm jumping ahead just a bit, but
4 after his suspension, approximately how many times
5 did you speak with Ms. Hagh?

6 A. Probably just one or two.

7 Q. And were those substantive
8 conversations about the case?

9 A. They were not. She responded to my
10 continual calls after I learned Brian was suspended,
11 and per court order, they were to notify counsel,
12 myself, and I had no notice.

13 Q. You weren't given notice of the
14 suspension?

15 A. I was not.

16 Q. How did you learn about the suspension?

17 A. The client.

18 Q. How did the client learn about his
19 suspension?

20 A. Conversation with Brian is my
21 understanding.

22 Q. Tell me about your involvement in the
23 Fitzgerald case.

24 A. That is sort of a broad question.
25 Would you like to be more specific?

1 Q. Yeah, sure. What was your role in the
2 case? Did you draft pleadings; did you review
3 pleadings; did you -- how often did you communicate
4 with counsel; how often did you communicate with the
5 client, those types things?

6 A. Okay. Brian and I talked often and
7 communicated often throughout, from the beginning
8 until close to when it settled.

9 Q. Did you review pleadings?

10 A. I did. There were various pleadings
11 forwarded. One specific that I can mention is the
12 summary judgment motion. The PowerPoint drafts were
13 even forwarded. And the conversation with Brian was,
14 you know, take a look at it, let's review it.

15 Q. Who forwarded you the drafted motion
16 for summary judgment?

17 A. I'd have to look at the e-mails, which
18 I have not. I believe that may have been during the
19 time that Brian was suspended, so it may have come
20 from Afsoon.

21 Q. And who forwarded you the PowerPoint
22 presentation?

23 A. It may have been the same, but, again,
24 that's just from my memory.

25 MR. SPRAGENS: I'm sorry. I just want

1 to object to your -- I'm looking at this privilege
2 log, and I'm trying to understand if the witness is
3 asserting work product privilege or not over these
4 communications.

5 BY MR. YOUNG:

6 Q. Let's talk about the privilege log. In
7 response to a subpoena for documents in this case,
8 you produced a privilege log to the Trustee, correct?

9 A. Correct, yes.

10 Q. And did that privilege log detail all
11 of the conversations, whether written or by
12 telephone, that you had regarding the Fitzgerald
13 matter?

14 A. Yes.

15 Q. And I'll ask you to look at what's been
16 pre-marked as Exhibit Three to this deposition and
17 ask if this is the privilege log that you compiled in
18 response to the Trustee's subpoena?

19 A. It is.

20 Q. And is all of the information on this
21 log true and correct to the best of your knowledge?

22 A. Yes.

23 (EXHIBIT NO. 3 WAS DESIGNATED.)

24 BY MR. YOUNG:

25 Q. And to Mr. Spragens' point, I'm going

1 to ask you some questions about this exhibit, but I'm
2 not asking you for privileged information. So if we
3 get to the point where you feel like I'm asking
4 something that's privileged, I trust that you'll let
5 me know, because I'm not intending to ask you to
6 violate any privilege. But I do want to ask you
7 about some of the entries.

8 Specifically, let's look at the entries prior to
9 May 23, 2018. There is a handful of, it looks
10 like -- one, two, three, four, five, six -- six lines
11 prior to May 23, 2018; is that right?

12 A. Correct.

13 Q. And if you look back at Exhibit One,
14 you will see that May 23, 2018 is the date that the
15 Fitzgeralds engaged Cummings Manookian; is that
16 right?

17 A. Pursuant to this privilege log, yes.

18 Q. Right. Those entries prior to May
19 23rd, does that fairly describe your communications
20 prior to the execution of the engagement letter
21 between the Fitzgeralds and Cummings Manookian?

22 A. To my knowledge, yes.

23 Q. And all of these are communications
24 directly with Brian Manookian, correct?

25 A. To my knowledge, yes.

1 Q. Except for the first one, which says,
2 Number of telephone conferences with the Fitzgeralds,
3 right?

4 A. Yes.

5 Q. And once the engagement letter was
6 signed, it looks like there were a number of e-mails
7 between you and Mr. Manookian concerning the
8 Fitzgerald case from around June 4, 2018 through
9 November; is that right?

10 A. Through November of 2018, yes.

11 Q. And other than the very first one that
12 says, Around 6/4/2018, telephone conference with
13 Fitzgeralds, other than that and a 10/2/2018 e-mail
14 from Manookian to Marty Fitzgerald and RLM, which I
15 assume is you, correct? RLM, is you?

16 A. Correct, yes.

17 Q. Other than those two, it looks like all
18 of these communications from June to November were
19 between you and Mr. Manookian; is that right?

20 A. Yes.

21 Q. It looks like some of those e-mails
22 were from you to Mr. Manookian, and some were from
23 Mr. Manookian to you; is that accurate?

24 A. Yes.

25 Q. Is it fair to say that you were being

1 kept in the loop about what was going on with regards
2 to the Fitzgerald case during that time?

3 A. Yes.

4 Q. Were you reviewing any pleadings before
5 they were filed during this time?

6 A. There were documents that were
7 forwarded to me. I don't know if I reviewed them
8 prior to the filing.

9 Q. Do you remember if you reviewed the
10 complaint before it was filed?

11 A. No.

12 Q. You don't recall or you didn't?

13 A. I don't recall if I did or not.

14 Q. And during the time from the execution
15 of the engagement agreement on May 23, 2018 until the
16 end of November 2018, you had no e-mails or
17 conversations with Afsoon Hagh?

18 A. I would have to look back here and see
19 when my first -- that one conversation was with her,
20 but, again, not recalling the date of Mr. Manookian's
21 suspension, I had not had telephone conversations
22 with Afsoon prior to that.

23 Q. If I represent to you that the date he
24 was suspended was in December of 2018, then would you
25 agree that you had no conversations with Afsoon Hagh

1 prior to November of 2018?

2 A. If that's the date of his suspension, I
3 had no prior conversations with Afsoon.

4 Q. Was Ms. Hagh copied on any e-mails from
5 Mr. Manookian to you during this time?

6 A. Periodically. It was not consistent.

7 Q. Prior to his suspension, Afsoon Hagh
8 never sent you any draft documents?

9 A. No.

10 Q. You mentioned earlier that, at some
11 point, you became aware that Mr. Manookian's law
12 license had been suspended. Do you recall when you
13 learned that?

14 A. From your telling me right now, the
15 suspension was in December of 2018, I'm going to say
16 it was on or, you know, after that date. I remember
17 when I did learn about it. It was, you know, a
18 number of days, if not more than a week plus, that
19 the suspension had already taken effect.

20 Q. I think you mentioned that you learned
21 about that from the Fitzgeralds?

22 A. I learned about it -- and I do want to
23 correct that, too. I learned about it from the
24 Fitzgeralds, but almost at the same time, too, I had
25 done my own search and saw that he was suspended, as

1 well.

2 Q. Do you know how the Fitzgeralds learned
3 of the suspension?

4 A. I don't recall if it was either Brian
5 Manookian or Afsoon, but one of them told them.

6 Q. Do you know if they were notified by
7 telephone or by letter?

8 A. I do not know.

9 Q. Have you ever seen a copy of the letter
10 from Mr. Manookian to the Fitzgeralds notifying them
11 of his suspension?

12 A. No.

13 Q. Do you know whether the Fitzgeralds
14 ever interviewed other counsel in December of 2018
15 about engaging new counsel?

16 A. From my conversation with Ms. Hagh, it
17 was that they were just going to stay with the same
18 law firm. There didn't seem to be any response from
19 her that there was going to be any review of any
20 other counsel during that time.

21 MR. SPRAGENS: I just want to confirm
22 for the record that Ms. McCarthy is restating her
23 client's statements to her right now.

24 BY MR. YOUNG:

25 Q. During the time that Mr. Manookian was

1 suspended, did you have any discussions with
2 Ms. Hagh?

3 A. Yes, one or two.

4 Q. Were those by e-mail or by telephone?

5 A. Telephone.

6 Q. Would those be reflected in this
7 privilege log?

8 A. Yes. Well, I see one of them, but that
9 would have been later.

10 Q. Which one do you see?

11 A. I see one on April 3, 2019, in regards
12 to -- with a procedural call in regards to mediation,
13 trial date, scheduling.

14 Q. And just for the record, that April 3rd
15 e-mail was from you to Ms. Hagh, correct?

16 A. That was an e-mail, correct. Yeah.

17 Q. And if you look at the next page on
18 April 15th, there is an e-mail from Ms. Hagh to you,
19 correct?

20 A. Correct. It was, again, just regarding
21 scheduling, nothing substantive.

22 Q. Other than those two instances, do you
23 see any entry on this privilege log that evidences a
24 communication between you and Ms. Hagh?

25 A. I do not.

1 Q. So your recollection is that you only
2 had one or two conversations with Ms. Hagh while
3 Mr. Manookian was suspended?

4 A. I did, and her -- she returned one of
5 my voicemails left, and I don't -- I can't tell you
6 if it was a voicemail left on the general office
7 number or on her direct number, and it was a
8 conversation just to say, Brian will call you to
9 discuss, you know, the suspension and what's
10 occurring.

11 Q. During the time that Mr. Manookian's
12 license was suspended, did Ms. Hagh ever send you
13 drafts of pleadings, that you recall?

14 A. I believe, during that time, it was
15 just the summary judgment PowerPoint presentation.

16 Q. Did Mr. Manookian ever send you drafts
17 of pleadings while he was suspended?

18 A. Not to my memory were there drafts sent
19 from him. There were telephone conversations.

20 Q. I want to ask you about a couple of
21 specific entries on this log. If you will, get out
22 Exhibit Three. And the first one that I'm going to
23 ask about is on February 4, 2019. There's an entry
24 that says, e-mail from Manookian to RLM. And the
25 summary says, Update regarding summary judgment

1 motion. Do you see that?

2 A. I do.

3 Q. So you received an e-mail on February
4 4, 2019 from Mr. Manookian updating you on the status
5 of the summary judgment?

6 A. Yes.

7 Q. That didn't come from Afsoon Hagh?

8 A. No.

9 Q. Do you remember if she was copied on
10 that e-mail?

11 A. I do not.

12 Q. In February of 2019, did you find it
13 odd that Mr. Manookian was providing you that update
14 and not Ms. Hagh?

15 A. I don't know if I would call it odd.

16 Q. How would you describe it?

17 A. It seemed to me that he was just as
18 involved in the case as he had always been.

19 Q. The next entry on this log says,
20 February 4, 2019 to March 4, 2019 --

21 A. Correct.

22 Q. -- communications from RLM to
23 Manookian, return e-mails from Manookian. And the
24 summary says, Update strategy discussions regarding
25 pending motions. Do you see that?

1 A. Yes.

2 Q. And were all of those communications
3 during that time with Brian Manookian?

4 A. Yes.

5 Q. Was Afsoon Hagh actively involved in
6 any of those communications?

7 A. Could you describe what you mean by
8 actively?

9 Q. Did any of those e-mails or calls come
10 from Ms. Hagh?

11 A. Not to my knowledge, no. Not to my
12 memory, no.

13 Q. Do you know if she was copied on those
14 e-mails?

15 A. I do not recall. Again, she would be
16 copied sporadically on things during the entire
17 matter.

18 Q. Next, look at the next two entries. It
19 looks like you e-mailed Afsoon Hagh on April 3, 2019.
20 It says, e-mail from RLM to Afsoon Hagh. Summary,
21 initial e-mail to Afsoon Hagh regarding scheduling of
22 mediation and trial update. And then the next entry,
23 on the same day, shows an e-mail from Mr. Manookian
24 to you that says, Update regarding litigation and
25 pending motions. Do you see that?

1 A. I do.

2 Q. Did Mr. Manookian respond to your
3 e-mail asking Ms. Hagh for an update?

4 A. I would have to look at the e-mail. I
5 don't recall. I know that the e-mail was back and
6 forth with us, mine to Afsoon telling her, but I
7 don't recall if Brian was responding to that or not.

8 Q. And the only e-mail from Ms. Hagh on
9 this list, if you'll turn to the next page, appears
10 on April 15, 2019; is that right?

11 A. Correct.

12 Q. And that says, e-mails from Hagh to
13 RLM, update regarding scheduling of litigation. Do
14 you see that?

15 A. I do.

16 Q. And then let's look down the next few
17 lines, from April 30, 2019 through May 8, 2019.
18 There are a few entries that say, Update regarding
19 reinstatement of law license and regarding
20 reinstatement acknowledgement. Do you see that?

21 A. I do.

22 Q. What do you remember about those
23 communications?

24 A. Brian telling me that he was back.

25 Q. And after Mr. Manookian's

1 reinstatement, did you continue to be involved in
2 this case?

3 A. Yes.

4 Q. What did you do after his
5 reinstatement?

6 A. I'm looking at the timeline here. I
7 recall that the mediation was coming and the trial
8 date, and there was always discussion of me being
9 present for the mediation and for the trial. So
10 there was discussion in regards to that. In looking,
11 I can see that there were e-mails in regards to trial
12 strategy that Brian talked about, and in regards to
13 what his thoughts were in regards to witnesses, you
14 know, just how the trial was going to play out. We
15 had many back and forths in regards to that.

16 Q. So you were involved -- I'm sorry. I
17 think there was some feedback. You were involved in
18 those discussions?

19 A. I'm sorry. I couldn't hear what you
20 said.

21 Q. Were you involved in those discussions
22 about litigation updates and strategies?

23 A. With Mr. Manookian?

24 Q. Yes?

25 A. Yes.

1 Q. You said there was discussion about you
2 being involved in the mediation. Were you ultimately
3 present at the mediation?

4 A. I was not.

5 Q. Why not?

6 A. Brian said he was going to proceed
7 forward with just himself.

8 Q. Do you know why?

9 A. I do not.

10 Q. But you were aware that mediation
11 occurred?

12 A. I was.

13 Q. When did you learn that the case had
14 settled?

15 A. Sometime after the case had settled.

16 Q. How did you learn that the case was
17 settled?

18 A. From third-parties and from --

19 Q. I'm sorry. Go ahead.

20 A. -- from third-parties and discussion
21 with The Court myself.

22 Q. Mr. Manookian never let you know that
23 the case settled?

24 A. He did not.

25 Q. Ms. Hagh never let you know the case

1 settled?

2 A. He did not -- or she did not.

3 Q. The Fitzgeralds never let you know the
4 case settled?

5 A. I do not believe, the Fitzgeralds.

6 Q. Did they tell you immediately after
7 that the case had settled?

8 A. I knew a short time after.

9 Q. From the Fitzgeralds?

10 A. I don't recall which came first, to be
11 honest.

12 Q. Were you ever told that the Fitzgeralds
13 didn't want you to share in the fees in this case?

14 A. No.

15 Q. You see that the last several entries
16 on this log in August of 2019 into October of 2019
17 all reference the scheduling of a telephone
18 conference. Do you see that?

19 A. I do.

20 Q. Did you ever have that telephone
21 conference?

22 A. No.

23 Q. Were these messages ever returned to
24 you?

25 A. Some of them were returned from

1 Mr. Manookian with a, I'll call you later or I have a
2 one o'clock meeting, but there was never a
3 conversation.

4 Q. You were never told, in response to any
5 of these communications, that the case had settled?

6 A. Not from Mr. Manookian.

7 Q. Let's take a break until 10:40. I'm
8 getting close to being done.

9 (Whereupon, after a short break, the following
10 proceedings were had.)

11 BY MR. YOUNG:

12 Q. Ms. McCarthy, from your perspective,
13 what was Afsoon's -- Afsoon Hagh's role in the
14 Fitzgerald case?

15 A. From my perspective, some support
16 possibly to Brian, but it seems -- at least all of my
17 contact with her had been very administrative,
18 meaning scheduling, you know. But, again, that was
19 only a few times.

20 Q. What did she do that you believe
21 assisted in the outcome of this case?

22 A. I don't know her to have any impact in
23 the outcome of this case.

24 Q. Is there anything else that you would
25 like to say about your involvement in the Fitzgerald

1 matter or anything else that you think is important
2 for the parties to know in this case?

3 A. Nothing that comes to mind.

4 Q. I have no further questions.

5 EXAMINATION BY MR. SPRAGENS:

6 Q. Ms. McCarthy, my name is John Spragens.
7 I represent Brian Manookian and Manookian PLLC in
8 this matter. Can you hear me okay?

9 A. I can hear you, yes.

10 Q. I believe you testified that you
11 referred the case to Mr. Manookian; is that right?

12 A. I did. Is it not possible to see you,
13 Mr. Spragens?

14 Q. No. I'm just going to stay by phone
15 today, due to my office situation at the moment.

16 What other lawyers did you speak with, besides
17 Mr. Manookian, before referring the case?

18 A. You know, I would have to look back.
19 This goes back a number of years. That's something
20 that I did not review in preparation for this
21 deposition. But there was a number of them that I
22 spoke to in Tennessee.

23 Q. Was the subpoena that you produced, the
24 privilege log, in response to asking you for those
25 communications, or did it not ask for those

1 communications?

2 A. For which communications?

3 Q. Any communications with other attorneys
4 about the Fitzgerald case.

5 A. I don't believe so.

6 Q. And as you sit here today, you don't
7 recall what other attorneys you spoke to on behalf of
8 the Fitzgeralds?

9 A. I talked to lots of attorneys
10 throughout the United States in regards to cases like
11 this. I cannot give you specific names in regards to
12 who I talked to before Brian Manookian.

13 Q. I think you testified that you and the
14 Fitzgeralds were friends for over 40 years; is that
15 correct?

16 A. Yes.

17 Q. How did you first come to know the
18 Fitzgeralds?

19 A. Growing up in the same town.

20 Q. And is that a town in Illinois?

21 A. It is, yes.

22 Q. What town is that?

23 A. Sterling.

24 Q. And which of the Fitzgeralds did you
25 first come to know?

1 A. Probably Melissa, but it could have
2 been both of them. Marty was the older brother to
3 another friend of ours.

4 Q. How did you come to speak with them
5 about their loss that led to the case that we have
6 been talking about today?

7 A. I was a very close friend and assisted
8 with the funeral services for them.

9 Q. I think you testified that you provide
10 legal advice about end of life issues; is that right?

11 A. Correct.

12 Q. Is that through a law firm?

13 A. No. Well, both, I guess, yes. So
14 estates and trusts, and then in regards to families
15 that need cremation services that may need to be
16 pointed in the right direction after a loved one
17 passes, in regards to -- it could be simple things,
18 like what do they do with the driver's license to,
19 you know, who do they have to notify if they want to
20 sell a car.

21 Q. What was the law firm -- I'm sorry --
22 that you mentioned at the beginning of that response?

23 A. The law firm? I don't believe I told
24 you my law firm name.

25 Q. Oh, okay. Could you, please?

1 A. Yep. Leal McCarthy Law Group.

2 Q. And is that an active law practice
3 today?

4 A. It's new. So it's new, yes. If you
5 are asking what I was practicing under at the time of
6 this matter, it would be just the Law Office of
7 Ronette Leal McCarthy.

8 Q. Was that incorporated in any way?

9 A. The Law Office of Ronette Leal
10 McCarthy, no.

11 Q. So you were a solo practitioner, in the
12 sense that you didn't have, like, an LLC or some
13 other corporate form?

14 A. Correct.

15 Q. At that time, that the Fitzgeralds
16 spoke with you after the loss of their daughter, were
17 you also working inhouse at Element Cremation?

18 A. I was.

19 Q. Did they come to you with respect to
20 the services that Element Cremation provided or just
21 independently as friends?

22 A. No. It had nothing to do with that.
23 We're personal friends.

24 Q. What is your role as an inhouse
25 attorney at Element Cremation?

1 A. To help in regards to any business
2 aspects of Elements Cremation. And then as I already
3 stated, if there is any families that have any
4 questions in regards to, you know, notifying social
5 security, how to, you know, finalize insurance
6 payments, maybe life insurance, what do they have to
7 do with a home, a car, those type of things.

8 Q. I think you testified that you're
9 licensed to practice law in Illinois; is that right?

10 A. Yes.

11 Q. Are you licensed to practice law in
12 Tennessee?

13 A. I am not.

14 Q. Are you licensed to practice law in any
15 other states?

16 A. I am not.

17 Q. With respect to your Illinois law
18 license, that's been active since before January 1,
19 2018?

20 A. Correct.

21 Q. Are you affiliated with any other
22 businesses or law practices, aside from your own
23 personal practice and Element Creation?

24 A. No. It's cremation. Elements
25 Cremation.

1 Q. Sorry. I think I said that, but my
2 connection may not be very good.

3 A. Okay.

4 Q. And at the time that the Fitzgeralds
5 contacted you about Megan's death, you were
6 affiliated with your own law practice and Element
7 Cremation; is that right?

8 A. If you want to say affiliated with,
9 again, that's where I work. The Fitzgeralds
10 contacted me, because I'm their personal friend.

11 Q. But were you also maintaining a private
12 practice, at the time?

13 A. Correct.

14 Q. Were you representing clients in that
15 practice, at the time?

16 A. It's more an advisory role. I have two
17 young children. And so I would have to look back in
18 2018, but I did have some other clients that were
19 similar to the Fitzgeralds that were all using, you
20 know, other counsel for personal injury matters.

21 Q. At the time they came to you, which was
22 prior to May 18, 2018, did you have engagement
23 agreements with any clients, other than through your
24 work at Element Cremation?

25 A. No. Other personal injury firms had

1 engagement agreements with clients that I had
2 referred to them.

3 Q. Did you ever have an engagement
4 agreement with the Fitzgeralds, other than the
5 agreement that we looked at earlier today, the
6 Cummings Manookian agreement?

7 A. Individually, no. That's not my
8 position.

9 Q. Do you have any ownership interest in
10 Element Cremation?

11 A. No.

12 Q. How did you get Mr. Manookian's name,
13 originally, do you recall?

14 A. I believe I answered that with
15 Mr. Young. Would you like me to answer it, again?

16 Q. Sure.

17 A. I did some research in regards to
18 counsel in the Tennessee area, and then I also have
19 some individuals that live outside -- friends that
20 live outside of the Nashville area, and both through
21 my research and then a friend, his name came up.

22 Q. So when you say research, you mean
23 online research?

24 A. Correct, yes. Just looking at who the
25 counsel are, and, you know, the area they practice,

1 doing some reading on them.

2 Q. And who was the friend you spoke with
3 before referring the case to Mr. Manookian?

4 A. John Menefee.

5 Q. And how did Mr. Menefee know
6 Mr. Manookian, to the extent that you are aware?

7 A. I do not know.

8 Q. What was the nature of his experience
9 with him in the past, such that he gave you a
10 recommendation?

11 A. I don't believe Mr. Manookian and
12 Mr. Menefee know each other directly.

13 Q. Is Mr. Menefee an attorney?

14 A. He is not.

15 Q. Do you know anything about
16 Mr. Menefee's awareness of or experience with
17 Mr. Manookian before that referral?

18 A. Again, I don't believe it was personal
19 experience.

20 Q. But do you know anything about what led
21 him to, if I'm understanding you correctly, vouch for
22 Mr. Manookian as an appropriate referral source?

23 A. I do not.

24 Q. And am I understanding you correctly
25 that Mr. Menefee vouched for Mr. Manookian as an

1 appropriate referral source, let's say, referral
2 recipient for you?

3 A. I would not use the word vouch, no. It
4 was a name that he was provided. I cannot tell you
5 who or where it came from. And I had also come
6 across Brian Manookian's name, so kind of twice
7 seeing the name and hearing it. I don't believe
8 there was any vouching on Mr. Menefee's part of Brian
9 Manookian.

10 Q. So is it correct that you sort of
11 contacted Mr. Menefee to ask him if he had any
12 recommendations for personal injury and wrongful
13 death attorneys in Middle Tennessee?

14 A. Yes.

15 Q. And do you recall if the only name he
16 came back with was Mr. Manookian's, or were there
17 multiple names?

18 A. I believe that there were a couple.
19 There was at least one other, but I had already kind
20 of crossed that person off my list.

21 Q. And who was that?

22 A. You know, again, I don't recall exact
23 names, but I know that there were two names that
24 Mr. Menefee gave me.

25 Q. I'm sorry. Did you say two names or a

1 few names?

2 A. Two. It was two. But I don't remember
3 who. I talked to a number of counsel prior to that,
4 and then a number of counsel, you know, at the
5 conclusion of the Fitzgerald matter, too. So I don't
6 remember names.

7 Q. The other counsel that you talked to
8 before recommending Mr. Manookian to the Fitzgeralds,
9 did you have phone conversations with them, or how
10 did you come across the other counsels' names?

11 A. The wonderful world of Google.

12 Q. Got it. Was there anybody else, other
13 than Mr. Menefee, that you relied on locally for
14 expertise?

15 A. I wouldn't call Mr. Menefee's referral
16 to me as an expertise, because, again, he's not an
17 attorney. He's a lay person. It just happened to be
18 a name that he told me, and since Brian was a name
19 that I hadn't crossed out, yet, it was kind of, you
20 know, there's that name again, and I should probably
21 reach out to him.

22 Q. Is Mr. Menefee owed any portion of the
23 Fitzgerald fee, as far as you know?

24 A. No.

25 Q. And you're not planning to pay him

1 anything as a result of any fee in this case?

2 A. No. I believe that would be illegal.

3 Q. You are claiming a portion of the fee
4 in the Fitzgerald matter?

5 A. Yes.

6 Q. And what portion of the fee do you
7 contend you're entitled to recover?

8 A. That had always been up to discussion
9 between Brian and I. And in the -- you know, it has
10 gone back and forth so many times in regards to the
11 bankruptcy matter, but our -- my fee that I am
12 standard with is a third, a third of a third. That's
13 based off of, you know, work like this throughout
14 Illinois and other states.

15 Q. And do you have a written agreement
16 with Mr. Manookian or anyone else memorializing that?

17 A. The engagement letter, and then there's
18 e-mails confirming it.

19 Q. So, first, with respect to the
20 engagement letter, does it specify what your portion
21 of the contingency fee will be?

22 A. It does not.

23 Q. And do you have e-mails in which it
24 spells out what your portion of the contingency fee
25 will be?

1 A. I do.

2 Q. And that portion is one-third of
3 one-third?

4 A. There was discussion, yes.

5 Q. Can you tell me what you mean by, there
6 was discussion?

7 A. Yes. That's what it says in the
8 e-mail.

9 Q. And did both sides, from your
10 perspective, agree to that?

11 A. Yes, because we went into great
12 conversation about what I was going to do with that
13 third of mine.

14 Q. What were you going to do with that
15 third?

16 A. The Fitzgeralds had planned on giving
17 to a not-for-profit during the case, prior to the
18 case and even during the case. It wasn't decided
19 exactly which one. They were very committed to
20 Megan's swimming and her school and also her future
21 pursuits, in regards to making prosthetics for
22 veterans that had lost limbs. So I had always talked
23 with Mr. Manookian that I would not be keeping the
24 third that I was going to take, but it was going to
25 be distributed amongst the not-for-profits that the

1 Fitzgeralds had selected. I asked him to not have
2 that conversation with them when they met. He went
3 into great, great conversations with me about how
4 wonderful that was, and how he had many times not
5 taken his amount, because he felt so committed to
6 different families that he had represented over time.

7 Q. And is it still your intention to
8 donate that portion of -- I mean, your full portion
9 of any recovery in this bankruptcy case to that
10 not-for-profit?

11 A. I think that question is irrelevant.

12 Q. That's fine. Is that still your
13 intention?

14 A. I'm not going to answer that question,
15 because I don't know what the answer to that is, at
16 this point.

17 Q. You're an attorney, and you're aware
18 that the Rules of Civil Procedure require you to
19 answer the questions, even if you think they are
20 irrelevant, in a deposition?

21 A. I do. And I don't have an answer for
22 you. I can't -- I honestly cannot tell you what will
23 be done if there's a recovery.

24 Q. Because as you sit here today, it's not
25 your intention to give all of that money to that

1 not-for-profit; is that correct?

2 A. My intention is to make certain that I
3 can pay the legal fees that I have incurred in
4 regards to representation for my involvement in this
5 bankruptcy matter.

6 Q. And those legal fees are the time
7 you've spent that's memorialized in the privilege
8 log?

9 A. No. I had to hire counsel in regards
10 to the bankruptcy matter that represented me
11 initially, that represented me to get my claim heard.

12 Q. Are you represented today in the
13 bankruptcy matter?

14 A. I am not.

15 Q. What's the total of your legal fees in
16 the bankruptcy matter?

17 A. Approximately \$26,000.

18 Q. So your intention is to pay those legal
19 fees, and then do you know what's going to happen
20 with the remainder of any amount that you're paid in
21 the bankruptcy?

22 A. I do not.

23 Q. When was the last time you spoke with
24 Marty or Melissa Fitzgerald?

25 A. Approximately, right around the

1 conclusion of this matter. So whenever the date
2 would be. Right around the fall of 2019.

3 Q. And what was the nature of that
4 conversation?

5 A. The -- it was a text message.

6 Q. And can you tell me what it said?

7 A. From which part? The text message,
8 basically, just said that the matter was concluded,
9 and that was about it.

10 Q. Is that a text message you sent them or
11 they sent you?

12 A. I would have to look back and see who
13 initiated it. It's not something that I reviewed for
14 this deposition.

15 Q. Does that not fall within the scope of
16 the documents that you were asked to provide for the
17 deposition?

18 A. No, because it was a friendly -- I
19 mean, this matter was over, you know. We're friends.

20 Q. And that was in 2019?

21 A. Correct.

22 Q. Have you maintained your friendship
23 since that time?

24 A. I have not.

25 Q. And is that a decision you made, or a

1 decision that they made, or that both sides made?

2 A. I'm not sure that there is a correct
3 answer to that. What I have heard is that there were
4 other things told to them in regards to how I was
5 going to utilize the money, which wasn't true.

6 Q. What was told to them, as far as you
7 heard?

8 A. I was told that I was money-seeking,
9 and that I was going to use all of the proceeds for
10 my own benefit, and that I had even encouraged
11 Mr. Manookian to go after the Plaintiff individually
12 for more money outside of the insurance award.

13 Q. And do you deny that?

14 A. I absolutely, categorically deny that.

15 Q. Who told you that?

16 A. A third-party.

17 Q. And who was that?

18 A. Another friend of ours.

19 Q. What was that friend's name?

20 A. It came from multiple friends.

21 Q. And what were their names?

22 A. Andrew Burton, Jessica Wright.

23 Q. Anyone else?

24 A. No.

25 Q. You said that it was a false

1 representation that you were going to keep the money
2 for yourself, but you also --

3 A. I'm sorry. You cut out.

4 Q. I'm sorry. I believe you said that it
5 was a false representation that was made that you
6 were going to keep the remainder of the money for
7 yourself, or the attorney's fee for yourself, but you
8 also, today, are not prepared to testify what you're
9 going to do with the money; is that right?

10 A. Absolutely correct. A lot has
11 transpired between 2019 and 2022, and so for me to
12 answer that question honestly, I can't, because I
13 don't have an answer. It may still be donated, but
14 it just may not be donated to the Fitzgeralds' not-
15 or-profit.

16 Q. So is it fair to say that you've had a
17 falling out with them?

18 A. If that's what you want -- that's not
19 how I would categorize it, but if you wish to use
20 those words.

21 Q. How would you categorize it?

22 A. We just haven't talked in some time and
23 aren't friends, at this point. From what I have
24 heard, they have been lied to, in regards to many
25 things that I represented to Mr. Manookian, and it

1 has made for a very strained relationship.

2 Q. The statement that you said was false
3 is not necessarily false today?

4 A. Which is that?

5 Q. What you're planning to do with your
6 portion of any recovery.

7 A. I don't believe that you asked me if
8 the statement is false. What statement? Can you
9 read the statement back to me that you are asking if
10 it's false?

11 Q. I don't have a live transcript of this
12 deposition, but I believe what you said was that they
13 were told that you were going to keep your portion of
14 the proceeds, rather than donating it to their
15 nonprofit or their not-for-profit, and, today, you
16 can't say one way or the other of what you're going
17 to do with that portion of the proceeds; is that
18 right?

19 A. That's correct.

20 Q. Other than your initial referral of the
21 Fitzgeralds to Mr. Manookian, did you offer legal
22 advice to the family about the case?

23 A. I think you would have to be more
24 specific in regards to what legal advice. We did
25 have conversations throughout the case.

1 Q. Well, I am trying to walk that line, as
2 I'm sure you appreciate, between asking you about the
3 nature of the conversations and just finding out if
4 you gave them legal advice during the litigation. So
5 I have to rely on your own judgment as an attorney
6 here to find out if, in your view, you provided them
7 legal advice after the initial referral.

8 A. Yes, we had conversations in regards to
9 the case.

10 Q. And were those in the nature of sort of
11 strategy and kind of big picture conversations?

12 A. I would have to look back at what our
13 communications were to answer that for you.

14 Q. Did you include those communications in
15 the privilege log?

16 A. There were mentions of the Fitzgeralds
17 in the privilege log, yes.

18 Q. Let's look at Exhibit Three that was
19 designated by Mr. Young as your -- Exhibit Three to
20 this deposition, which was the privilege log that you
21 produced in response to his subpoena. Can you
22 identify for me any communications in here between
23 you and the Fitzgeralds, period?

24 A. On the first page, around 6/4/2018,
25 telephone conversation with the Fitzgeralds. In

1 regards to the 2/10 -- 2/18 -- I'm sorry -- the 2/18,
2 e-mail from Manookian to Marty Fitzgerald and I,
3 there was communication there.

4 Q. That's an e-mail that you received?

5 A. Correct. But nowhere else is the
6 Fitzgerald name mentioned, in my quick review.

7 Q. I think on June 4, 2019, there were
8 e-mails to the Fitzgeralds and you from Manookian; is
9 that right?

10 A. Yes. On June 4, 2019, yes.

11 Q. There's no communications after May 22,
12 2018, in which you -- oh, excuse me. I apologize --
13 after June 4, 2018, in which you were providing any
14 information to them; is that right?

15 A. Missy and I would have telephone calls
16 separately, as friends. You know, our only -- the
17 conversation wouldn't necessarily be in regards to
18 the case and what legal strategies were happening,
19 but, again, we were friends, as well.

20 Q. Well, that's tricky --

21 A. It is.

22 Q. -- because that's the two hats that, I
23 guess, you were wearing. But nothing else that
24 you've memorialized in this privilege log in which
25 you communicated legal advice to them or legal

1 strategy to them; is that right?

2 A. No. In regards to the case, that was
3 Brian's role.

4 Q. Do you know whether the Fitzgeralds
5 believe that you are entitled to a fee in this case
6 today?

7 A. I do not know. I have not asked them
8 that question.

9 Q. With respect to the privilege log, when
10 it says Manookian, does that always mean Brian
11 Manookian or might that mean the law firm?

12 A. No. If you look at 5/18/2018, after
13 Brian Manookian's name, I put a (Manookian). It
14 always means Brian Manookian.

15 Q. Okay. Is there somewhere on the
16 privilege log where you document a conversation about
17 Mr. Manookian's suspension from the practice of law?

18 A. There's a couple mentions of that. The
19 first one -- if you can find it quicker than I can,
20 you can note it. I know on 4/30, on page two,
21 4/30/2019, there's updates regarding the instatement
22 of law license. And then, two lines after that,
23 5/8/2019, from me. So there's three of them, I
24 guess, right there in a row regarding the
25 reinstatement of the law license between Brian and

1 myself.

2 Q. Anything about the original suspension,
3 which Mr. Young represented to you --

4 A. Yeah, I'm looking.

5 Q. -- went into effect in December of
6 2018?

7 A. I'm not seeing anything in regards to
8 the suspension.

9 Q. I think you testified that you learned
10 about the suspension from the Fitzgeralds; is that
11 right?

12 A. Melissa, correct.

13 Q. And that was in a friendly phone call
14 with Ms. Fitzgerald?

15 A. Correct.

16 Q. But you don't know when that took
17 place?

18 A. I do not.

19 Q. And that's not memorialized in this
20 privilege log anywhere?

21 A. No.

22 Q. You don't have any reason to believe
23 that Mr. Manookian did not inform the Fitzgeralds
24 about his initial suspension, do you?

25 A. No.

1 Q. Did Melissa tell --

2 A. Well --

3 Q. I'm sorry. Go ahead.

4 A. Brian Manookian told me that he told
5 them, so I'm going to believe him on his word, at
6 that point, that he told them.

7 Q. How did Melissa learn about the
8 suspension?

9 A. I don't -- if you're asking specifics,
10 if it was a telephone call or a letter, I can't
11 answer that. I just knew that she knew about it.

12 Q. I guess my first question probably is,
13 did she learn about it from Mr. Manookian or from
14 some other source?

15 A. I don't know. My memory tells me that
16 it was from Mr. Manookian himself.

17 Q. Okay. And that's -- I was trying to
18 clear up that point. But you don't have any reason
19 to believe that Mr. Manookian failed to inform the
20 Fitzgeralds about his suspension?

21 A. No. He -- no. I believe he told them,
22 told them, from my recollection, that once the
23 suspension was over, everything was going to go, you
24 know, back to how it was, he would be involved after
25 that point. I know that I was one that was not

1 notified per the, you know, per the court order, as
2 he was to notify all referring counsel, as well.

3 Q. And that's a court order that you
4 reviewed after talking to Melissa Fitzgerald?

5 A. Correct. I'm not certain what it's
6 called in your state, but the Tennessee attorney
7 reviewed the plan commission. I mean, in Illinois,
8 that's what it's called. So, I mean, if that's the
9 name for Tennessee. I could be wrong.

10 Q. In Illinois, it's the IRADC; is that
11 right?

12 A. Yes.

13 Q. And here, we have the Tennessee Board
14 of Professional Responsibility, which we call the
15 BPR.

16 A. Sure. Okay. So, yes, I reviewed it on
17 their website.

18 Q. Do you understand that's an order of
19 the Tennessee Supreme Court?

20 A. Correct.

21 Q. And so you understand that upon the
22 order of the Tennessee Supreme Court, Mr. Manookian
23 was no longer entitled to practice law while his
24 license was suspended?

25 A. Yes.

1 Q. Did you talk to Melissa Fitzgerald as a
2 friend or as an attorney about whether they were
3 going to speak with other lawyers in his absence?

4 A. You cut out horribly during that
5 question, Mr. Spragens, but I believe you asked if I
6 talked to Melissa Fitzgerald during that time period
7 in regards to whether they were going to review
8 other -- or interview other counsel. Is that what
9 you were asking?

10 Q. Yes, ma'am. Sorry about the
11 technological problem.

12 A. That's okay. All she said to me was
13 that Brian had notified -- from, again, my memory,
14 Brian had notified her of the suspension, assured
15 them that everything was going to be, you know,
16 handled just as it was, everything would be smooth
17 and be continued, and that his firm would continue on
18 until he was back able to practice law, again.

19 Q. And was it your understanding, at some
20 point, that Afsoon Hagh began representing the
21 Fitzgeralds in this case?

22 A. I don't believe I ever had that belief
23 or information, that she was the sole one
24 representing them. I knew that there was some other
25 party at the law firm, as well, even though I had

1 never talked to them. I don't think I was under the
2 assumption as to who was doing the work when I
3 Mr. Manookian wasn't there.

4 Q. The other party that you are referring
5 to is Mr. Cummings?

6 A. Correct.

7 Q. Did you come to learn, at any time,
8 whether Mr. Cummings had resigned from the law firm?

9 A. I did not.

10 Q. You understood that he was a named
11 partner in the law firm at the beginning of the
12 representation?

13 A. No. I don't believe I was ever
14 explained his relationship with the firm.

15 Q. You knew that the firm was called
16 Cummings Manookian, though?

17 A. Yes.

18 Q. And in that initial representation
19 letter, it did say that Ms. Hagh would be an attorney
20 who would work on the case; is that right?

21 A. I would have to look back at the letter
22 to see specifically, names.

23 Q. Well, looking at Exhibit One to this
24 deposition, it says, All work on this matter will be
25 done by Brian Manookian, Brian Cummings or Afsoon

1 Hagh; is that right?

2 A. Yes.

3 Q. You don't have any reason to believe
4 that Ms. Hagh is not qualified to practice plaintiff
5 personal injury or wrongful death law, do you?

6 A. I do not.

7 Q. And, in fact, after Mr. Manookian was
8 suspended, she sent you that PowerPoint presentation;
9 is that right?

10 A. Correct.

11 Q. Was it your understanding that she also
12 drafted the summary judgement opposition?

13 A. I don't have an understanding as to who
14 drafted it.

15 Q. Was it your understanding that she
16 drafted the PowerPoint in opposition to the summary
17 judgment?

18 A. I don't have any understanding in
19 regards to that. I do recall her telling me that
20 Brain would call me to discuss it.

21 Q. Do you have any understanding of
22 whether Ms. Hagh argued the summary judgment
23 opposition at the hearing?

24 A. I do not know.

25 Q. You didn't attend that hearing?

1 A. I did not.

2 Q. Did you ask who was going to be
3 handling this case in Mr. Manookian's absence?

4 A. Ask who?

5 Q. Anybody.

6 A. Again, the law firm, did I ask that
7 specific question; no. I mean, when I see an
8 attorney part of a named law firm, Cummings
9 Manookian, and one is suspended, I'm going to assume
10 the other party, as you just note, Brian Cummings and
11 Afsoon Hagh, would, you know, carry on. Brian always
12 assured me that everything would be handled, even in
13 his absence, just as it was as he was there.

14 Q. Do you have any view of whether the
15 Fitzgeralds received a fair outcome in their case?

16 A. I don't know.

17 Q. Do you know whether Mr. Cummings ever
18 retired from Cummings Manookian?

19 A. I have no knowledge.

20 Q. Is it your understanding that if both
21 named partners of that firm were not able to practice
22 law, that that firm could not continue as a going
23 concern?

24 MR. YOUNG: Objection, to the extent
25 that it calls for a legal conclusion for Tennessee

1 law.

2 BY MR. SPRAGENS:

3 Q. You can answer, Ms. McCarthy.

4 A. You have to re-ask your question,
5 please.

6 Q. Sure. Is it your understanding that if
7 Mr. Cummings was no longer affiliated with the firm
8 and Mr. Manookian was not entitled to practice law,
9 that that firm would no longer be a going concern?

10 A. You're asking me for an opinion, and
11 I -- it seems almost like a hypothetical. I don't
12 know either of those things to be true, so I can't
13 answer that question.

14 Q. Do you know of any law firms in
15 Illinois in which there is no partner who is able to
16 practice law?

17 A. I haven't reviewed all of the law firms
18 in Illinois.

19 Q. I know, but do you know of any that you
20 have? You're a lawyer in Illinois. Would it
21 surprise you if there was a law firm in Illinois
22 where it was owned by someone other than a lawyer?

23 A. You know what, I don't know what our
24 rule in Illinois states, as if a non-lawyer can own a
25 law firm or not.

1 Q. But you don't think that you could
2 practice law for private clients through Element
3 Cremation, do you?

4 A. I'm not exactly certain of your
5 question.

6 Q. Well, when you represent clients
7 individually, you don't represent them through
8 Element Cremation; you represent them through your
9 own practice; is that right?

10 A. Correct. It's two distinct entities.
11 I do not represent; I'm inhouse counsel. Do you
12 understand what inhouse counsel means?

13 Q. I think so.

14 A. Okay. So I'm inhouse counsel for
15 Elements Cremation. I do not represent clients in
16 Elements Cremation.

17 Q. What percentage of the clients that you
18 represent in your private practice also use Element
19 Cremation for its services?

20 A. Next to none. That's not the carryover
21 that I do.

22 Q. I think you testified that you had an
23 impression that Ms. Hagh had a limited role in the
24 case during the period before Mr. Manookian's
25 suspension; is that right?

1 A. Yes.

2 Q. And it was your understanding that she
3 had a limited role in the firm; is that right?

4 A. I don't believe I answered that. I
5 don't know what her role in the firm is.

6 Q. You said she was copied on e-mails,
7 periodically?

8 A. Yes.

9 Q. Did she talk to you by phone multiple
10 times after Mr. Manookian's suspension?

11 A. She did not talk to me multiple times
12 after his suspension.

13 Q. Okay. How many times did she talk to
14 you after he was suspended?

15 A. Twice.

16 Q. And what dates were those? Feel free
17 to refer to the privilege log.

18 A. And when we say talked, it could be an
19 e-mail. The 4/3/2019 e-mail from me, I guess, that's
20 from me to her. The 4/15/2019 e-mail from Hagh to
21 RLM.

22 Q. I think you testified that you talked
23 to her on the phone twice, didn't you?

24 A. She did -- yeah, she did respond to --
25 again, I don't know if it was a general voicemail. I

1 had left voicemails for Mr. Cummings, Mr. Manookian
2 in a general voice mailbox after he was suspended to
3 know the status in regards to how things were going
4 to be moving forward. Afsoon did return the call
5 saying Brian would call me. That was the extent of
6 our conversation.

7 Q. So you only talked to her on the phone
8 one time?

9 A. Yeah, I believe so, now that I'm
10 thinking about it. Excuse my error earlier.

11 Q. So it's one e-mail and one phone call,
12 and that's the extent of your communications with
13 Ms. Hagh?

14 A. From my direct communication with her,
15 correct. As you mentioned, she was copied on things,
16 periodically, not consistently.

17 Q. And just for clarity, the e-mails in
18 which she was copied, your privilege log does not
19 reflect whether she was copied on an e-mail or not;
20 is that right?

21 A. My privilege log would show if she was.
22 So, again, there's only a couple of times her name
23 even appears on here.

24 Q. Okay. So this privilege log, where it
25 says, e-mail from Manookian to RLM, or RLM to

1 Manookian, or Manookian to clients, all of that would
2 reflect whether or not she was cc'd on a
3 communication?

4 A. I don't know. I would have to look
5 back at the e-mail, now, since you are asking.

6 Q. I mean, I just -- frankly, I don't see
7 anything where you indicate somebody being cc'd on a
8 communication, so that's why I'm asking.

9 A. No. I mean, if it was, like the
10 10/2/2018 e-mail from Manookian to Marty and myself,
11 it would note. Yeah, cc'd. You're correct. I don't
12 know that, either.

13 Q. All right. So she may have been cc'd
14 on any number of these e-mails in the privilege log?

15 A. Again, I don't know. I would have to
16 look back at the e-mails.

17 Q. Okay. I'm just getting you to agree
18 with me that we can't tell from looking at the
19 privilege log whether or not she was cc'd on an
20 e-mail; is that fair?

21 A. You cannot tell in regards to if there
22 was anyone copied on it or not.

23 Q. And that would include Ms. Hagh?

24 A. Possibly.

25 Q. Is that a yes to that question?

1 A. Sure, yes. I mean, whoever was copied,
2 no, you cannot tell. But I can tell you, from my
3 review of the e-mail for this matter prior to doing
4 this privilege log, I have not looked at them after,
5 it was very sporadic that she was on any e-mails. It
6 was merely as a copy. There was never engagement
7 with her, except for the couple of times noted.

8 Q. And I appreciate that you're
9 distinguishing between -- you've got the to and the
10 from on the privilege, just not necessarily the cc,
11 and I get that, and I don't have any dispute with you
12 there. Did you maintain contemporaneous time records
13 of your work on the Fitzgerald case?

14 A. What kind of contemporaneous time
15 records are you --

16 Q. I'm referring to where you --

17 A. Like a time log?

18 Q. Yeah, your time entries or how much
19 time you spent on the case, as it went along.

20 A. No. There is no need to do so, as the
21 referring. I do not keep my time, in regards to
22 matters that I refer.

23 Q. Well, you understand that the rules
24 require you to be paid in proportion for your
25 services or in some other arrangement as the client

1 may approve?

2 A. I do, and that's in regards to
3 Tennessee law.

4 Q. And this case was pending in Tennessee?

5 A. Yes. So in regards to the substantive
6 issues or anything, yes, there would be -- you know,
7 I could tell you the time, but e-mails, no. I don't
8 keep the e-mails and the telephone conversations as
9 time for them.

10 Q. So if I understand, the privilege log
11 reflects some communications, but that privilege log
12 was generated in response to the subpoena in this
13 bankruptcy case?

14 A. Correct, yes.

15 Q. Other than that privilege log, you did
16 not maintain contemporaneous logs of your work on the
17 case?

18 A. I have a file that has my work in it in
19 regards to this case.

20 Q. What's in that file?

21 A. Just printouts of the e-mails, summary
22 judgment motion, some research that Brian and I had
23 talked about that I was looking into, in regards to,
24 potentially, bringing in a possible claim against
25 business insurance providers.

1 Q. And that's the hard copy?

2 A. Pardon?

3 Q. I'm sorry.

4 A. You cut out, again. And I don't know
5 if there is someone else with you in the room, but I
6 keep hearing another voice, Mr. Spragens.

7 Q. There is no one else in the room with
8 me, and I hear the same feedback that you do, so I'm
9 not sure where it's coming from. But that's
10 maintained in hard copy?

11 A. Yes.

12 Q. In that file, just for clarity, there
13 is not, like, a log where you say, on this date, I
14 spent this amount of time on this case?

15 A. I have not reviewed that file, and it's
16 no longer, like, in my current possession. It's
17 packed away. So to say what's specifically in it, I
18 cannot. I know how I typically keep my notes, but I
19 can't tell you what specifically -- how they were,
20 you know, kept there.

21 Q. Okay. Well, we'll do this the hard
22 way. I'm just trying to find out, do you maintain
23 regular records of your time spent on work, or do you
24 not?

25 A. I do. I keep -- but it's more -- it's

1 like a running list, a time. So, for example, 11:24
2 a.m., and then, at the conclusion of a telephone
3 conference or me working on something, there will be
4 an end time, so, for example, 12 noon, making it up,
5 if I was doing something between now and 12 noon.

6 Q. So does that mean that you do have
7 contemporaneous time records of your work on the
8 Fitzgerald matter?

9 A. Yes. If you want to call my note
10 entries on paper, yes, that would be, I guess,
11 contemporaneous time. When I think of
12 contemporaneous time notes, I'm thinking of when I
13 worked in a law firm on litigation matters, and we
14 actually had a time system where you would put in
15 your time spent on a matter.

16 Q. Sure. I understand. So while you
17 don't have a fancy billing software, for example, you
18 do jot down your notes of the time you spent on these
19 cases?

20 A. I do.

21 Q. And you expect that that would be in a
22 file, which I believe you said was in storage, now?

23 A. Correct.

24 Q. Is that external storage or in your
25 house or in your office somewhere?

1 A. External.

2 Q. Would you have the ability to get that,
3 if it's needed?

4 A. Yes.

5 Q. And have you done so in connection with
6 this bankruptcy or this subpoena that Mr. Young sent
7 you?

8 A. No.

9 Q. When was the first time you spoke to
10 Mr. Young?

11 A. I would have absolutely no idea, in
12 regards to that. Whenever -- the first time I spoke
13 to Mr. Young. You know, it wasn't me; my counsel
14 spoke to Mr. Young. So a few months back, I guess.
15 I don't know. I would have to have something to
16 refresh my memory to tell me the date when
17 communication occurred between Mr. Young and either
18 my counsel or myself.

19 Q. And that was your counsel in connection
20 with the Cummings Manookian bankruptcy?

21 A. Correct, yes.

22 Q. Did you or your counsel speak to
23 Mr. Young when he -- during the time period before
24 the bankruptcy, when he had been appointed receiver
25 in a state court action in Tennessee?

1 A. I would have no idea of the answer to
2 that question without looking at a timeline,
3 Mr. Spragens. And I -- I don't know which matter
4 you're, you know, referring to there, either.

5 Q. So as far as you're aware, the first
6 contact that you or anybody on your behalf had with
7 Mr. Young was your attorney in this bankruptcy
8 talking to Mr. Young as Trustee for -- or counsel for
9 the Trustee in this bankruptcy?

10 A. Again, I don't know, Mr. Spragens. I
11 would have to look back at the dates to see when it
12 was.

13 Q. And what would we look at to find that
14 out?

15 A. I guess, an e-mail between myself and
16 when I hired representation in regards to the
17 bankruptcy matter.

18 Q. So I guess what I'm trying to find out
19 is, did you ever speak to Mr. Young before the
20 bankruptcy was initiated?

21 A. You kind of positioned that in regards
22 to some other matter, as well. So are you just
23 asking in regards to the bankruptcy matter, or -- I'm
24 a little unclear.

25 Q. My question is whether you spoke to

1 Mr. Young before the bankruptcy matter was opened.

2 A. Again, I don't know. I would have to
3 look back and see when my counsel initiated
4 conversation.

5 Q. Did you retain counsel before the
6 Cummings Manookian bankruptcy?

7 A. I retained counsel in regards to the
8 bankruptcy.

9 Q. Okay. So prior to learning about the
10 Cummings Manookian bankruptcy, you had not retained a
11 lawyer to deal with your fee in this matter?

12 A. No.

13 Q. And prior to learning about the
14 Cummings Manookian bankruptcy, your lawyer wouldn't
15 have had any contact with Mr. Young?

16 A. I guess you can draw that conclusion.

17 Q. You agree that that's correct?

18 A. There wouldn't be a need for my counsel
19 to have communication. I hired counsel in regards to
20 the bankruptcy matter and filing a claim.

21 Q. And then my only other question about
22 this is, prior to the bankruptcy matter, you didn't
23 have any communications with Mr. Young?

24 A. No.

25 Q. And what about any communications with

1 Jeanne Burton, who is the Trustee in this matter?

2 Have you had any?

3 A. No.

4 Q. When was the last time you spoke to
5 Mr. Young before today's deposition?

6 A. Again, I would have to look back at
7 dates, but it was in regards to my deposition not
8 going, the first -- for the first schedule. So
9 whatever that date was.

10 Q. Have you and Mr. Young had any
11 conversation where you discussed the substance of the
12 questions that he would ask you during today's
13 deposition?

14 A. No.

15 Q. And about how many times have you
16 directly talked to Mr. Young before today's
17 deposition?

18 A. Maybe three. It was in regards to the
19 scheduling of it, when I would be available, the
20 scope, which is exactly the scope on the notice of
21 the deposition, and how long he anticipated, which
22 we're about half an hour over what he anticipated the
23 deposition to run.

24 Q. Did you understand that after
25 Mr. Manookian was suspended from the practice of law,

1 he had an obligation to keep you informed about
2 matters relating to the transfer of his file to
3 another attorney?

4 A. You cut out at the very beginning, so I
5 didn't hear what you asked.

6 Q. Did you understand whether
7 Mr. Manookian, when he was suspended from the
8 practice of law, had an obligation to keep you
9 informed about matters relating to the transfer of
10 his client file to another attorney?

11 A. Did I understand that he had a duty to
12 me to let me know if the file was transferred to
13 another attorney; is that what you're asking me?

14 Q. No. Did you understand whether, due to
15 his duty to his former client, he had an obligation
16 to apprise future attorneys about matters relating to
17 the representation?

18 A. Your question is confusing me. Maybe
19 you could break it apart.

20 Q. Sure. When an attorney is suspended
21 from the practice of law, do you have any
22 understanding about whether they're expected to, as a
23 part of the hand-off of their client file to other
24 attorneys, who are continuing to represent the
25 client, if they have any obligation to communicate

1 with those other attorneys about the representation,
2 notwithstanding the fact that they have been
3 suspended from the practice of law?

4 A. If you're asking to referring
5 attorneys, yes, I believe he had a duty to let
6 referring attorneys know. If you're talking
7 generally, to the world of attorneys, I don't know
8 what his responsibility is to tell other attorneys.

9 Q. And I also mean to the client's next
10 attorney. After Mr. Manookian hands off that file to
11 somebody else, he has a duty to continue
12 communicating with respect to the hand-off of the
13 client file; do you agree with that?

14 A. Mr. Spragens, I am sorry. I don't know
15 if it's my end or yours, but you broke up horribly,
16 again, at the beginning of that question.

17 Q. Sure. And I'm sorry about that. My
18 question is, do you have any understanding about
19 whether an attorney, who is suspended from the
20 practice of law, is required to communicate on behalf
21 of his client with that client's next attorney as
22 part of the transition process of that file going
23 from the suspended attorney to the ongoing
24 representation?

25 A. I have absolutely no idea.

1 Mr. Manookian was the first counsel I have ever come
2 in contact with before that has been suspended.

3 Q. And that's -- let me ask you this. Do
4 you know whether Mr. Manookian consulted with the
5 Tennessee Board of Professional Responsibility about
6 his obligations in handing off the client file upon
7 his suspension and what he was required to do going
8 forward to ensure that the client was represented?

9 A. I have no idea what his conversations
10 were with your Tennessee Board of Professional
11 Responsibility.

12 Q. Okay. Well, I appreciate your time
13 today, Ms. McCarthy. I don't have anything further,
14 at this time.

15 A. Thank you.

16 MR. GABBERT: No questions from Craig
17 Gabbert.

18 MR. YOUNG: Ms. McCarthy, I have no
19 further questions. Thank you for your time, today.

20 WITNESS: Thank you.

21 FURTHER DEPONENT SAITH NOT

22 /signature waived/

23 Sworn to before me when taken

24

LEA ANNE GRAY, LCR 445
25 Court Reporter for the
State of Tennessee

1
2 CERTIFICATE
3

4 I, Lea Anne Gray, court reporter for the
5 State of Tennessee, do hereby certify that the
6 foregoing transcript was recorded stenographically by
7 me and reduced to typewritten form by me.

8 I FURTHER CERTIFY that the foregoing
9 transcript is a true and correct transcript, to the
10 best of my ability, of the testimony given by the
11 said witness at the time and place specified herein.

12 I FURTHER CERTIFY that I am not a relative
13 or employee or attorney or counsel of any of the
14 parties, nor a relative or employee of such attorney
15 or counsel, or financially interested directly or
16 indirectly in this action.

17 IN WITNESS WHEREOF, I have hereunto set my
18 hand this 27th day of June, 2022.

19 _____
20 LEA ANNE GRAY, LCR 445
21 Court Reporter for the
22 State of Tennessee
23
24
25

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